



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

MAGNOLIA EXPRESS LOGISTICS, INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 3:10-cv-581-TSL-FKB

CJ EXPRESS, LLC AND LARRY PATE, INDIVIDUALLY

DEFENDANT

NOTICE OF REMOVAL

TO: Magnolia Express Logistics, Inc.
c/o Jenifer B. Branning, Esq.
423 Center Avenue
Philadelphia, MS 39350

Jenifer B. Branning, Esq.
423 Center Avenue
Philadelphia, MS 39350

Hon. Joe Rigby
Scott County Circuit Clerk
P.O. Box 371
Forest, MS 39074

YOU WILL PLEASE TAKE NOTICE that this Notice of Removal and the exhibit attached hereto have been filed this day for and on behalf of CJ Express, LLC and Larry Pate, Individually, Defendants, in the United States District Court for the Southern District of Mississippi, Jackson Division. You are hereby served with a copy of this Notice of Removal of said cause to the United States District Court from the Circuit Court of Scott County, Mississippi, upon the grounds stated herein. Pursuant to said removal, you will proceed no further in said Circuit Court of Scott County, Mississippi, and you will be mindful of the provisions of Title 28 U.S.C. § 1441, *et seq.* Please take notice hereof and govern yourselves accordingly.

As its short and plain statement of the grounds for removal of this civil action, these Defendants would show unto the Court the following:

I.

There is now pending in the Circuit Court of Scott County, Mississippi, a certain civil action styled "*Magnolia Express Logistics, Inc. and CJ Express, LLC and Larry Pate, Individually*," being civil action number 2010-CV-377SC on the docket of said Court. Said civil action is an action for breach of contract. The time within which Defendants are required to plead, answer or otherwise respond to the Complaint has not yet expired, and the thirty-day period within which to file for and obtain removal of said civil action has not yet expired.

II.

The Plaintiff was alleged at the time the Complaint was filed to be a corporation organized and existing under the laws of the State of Mississippi, and Defendant avers that Plaintiff is, at the time of the filing of this Notice of Removal, still a corporation organized and existing under the laws of the State of Mississippi with its principal place of business at 16721 Highway 21, Sebastopol, Mississippi 39359. Defendant, CJ Express, LLC was at the time the Complaint was filed and is presently a corporation organized and existing under the laws of the State of Tennessee, with its principal place of business at 105 Rock Creek Rd., Ste. 4, Ervin, TN 37650. The Defendant Larry Pate, was at the time the Complaint was filed and is presently a citizen of the State of Tennessee. There is, therefore, complete diversity of citizenship between the Defendants and the Plaintiff.

III.

It is facially apparent that the amount in controversy in said civil action exceeds the sum and value of \$75,000.00, exclusive of interest and costs, by reason of the fact that the demand made by Plaintiff in said civil action is in the amount of \$254,000, plus punitive damages.

IV.

Pursuant to the provisions of Title 28 U.S.C. § 1441, *et seq.*, this civil action is removable by Defendants.

V.

The Defendants attach hereto as Exhibit "A" a copy of the Complaint filed in the Circuit Court of Scott County, Mississippi bearing Civil Action No. 2010-CV-377-SC pursuant to L.U.Civ.R. 5(b)(1) and ask that said exhibit be considered a part hereof the same as though copied herein in words and figures in full.

VI.

Defendants, upon the filing of this Notice of Removal, have given notice to Magnolia Express Logistics, Inc., Plaintiff, and its attorney of record, Jenifer B. Branning, of Philadelphia, Mississippi, of the filing of said Notice of Removal of said civil action, and simultaneously therewith, the Defendants have filed a true and correct copy of the Notice of Removal with the Clerk of the Circuit Court of Scott County, Mississippi, together with the exhibit thereto, all in compliance with Title 28 U.S.C. § 1446(d).

WHEREFORE, PREMISES CONSIDERED, CJ Express, LLC and Larry Pate, Individually, pray that this Notice of Removal and exhibit thereto be received and filed, and that the said Circuit Court of Scott County, Mississippi, proceed no further herein. Defendants further pray for all necessary writs to bring before this Honorable Court all records and proceedings in the said Circuit Court of Scott County, Mississippi, and Defendants pray for such other, further, special and general relief as they are entitled to receive.

Respectfully submitted this the 18th day of October, 2010.

CJ EXPRESS, LLC AND
LARRY PATE, INDIVIDUALLY

BY:


THEIR ATTORNEY

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, B. Stevens Hazard, attorney for CJ Express, LLC and Larry Pate, Individually, Defendants herein, hereby certify that I have this day filed the original of the above and foregoing Notice of Removal and exhibits thereto in the United States District Court for the Southern District of Mississippi, Jackson Division, and that upon the filing of the original notice and exhibits thereto, I have served a true and correct copy of the said notice and exhibits on:

Magnolia Express Logistics, Inc., Plaintiff, in care of its attorney, Jenifer B. Branning, by mailing to her usual business address in Philadelphia, Mississippi;

Jenifer B. Branning, attorney of record for the Plaintiff, Magnolia Express Logistics, Inc., by mailing to her usual business address in Philadelphia, Mississippi; and

Joe Rigby, Circuit Clerk of Scott County, Mississippi, by mailing to his usual business address at Forest, Mississippi;

all to effectuate the removal of a civil action entitled, "*Magnolia Express Logistics, Inc. and CJ Express, LLC and Larry Pate, Individually*," being civil action number 2010-CV-377SC on the docket of said Circuit Court, to the United States District Court for the Southern District of Mississippi, Jackson Division, pursuant to the statutes and rules in such cases made and provided.

WITNESS MY SIGNATURE hereto, this the 18th day of October, 2010.



B. STEVENS HAZARD,
ATTORNEY FOR CJ EXPRESS, LLC AND
LARRY PATE, INDIVIDUALLY